

**PLAINTIFFS' MEMORANDUM OF LAW IN OPPOSITION TO
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT RE NUISANCE**

EXHIBIT 7

STATE OF WEST VIRGINIA

At the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 5th day of January, 2016, the following order was made and entered **in vacation**:

State of West Virginia ex rel.
Amerisourcebergen Drug Corporation;
Miami-Luken, Inc.;
JM. Smith Corporation, doing
business as Smith Drug Co.;
The Harvard Drug Group, LLC;
Anda Inc.;
Associated Pharmacies, Inc.;
H.D. Smith Wholesale Drug Company;
Keysource Medical, Inc.;
Masters Pharmaceuticals, Inc.;
Quest Pharmaceuticals, Inc.;
Richie Pharmacal Company, Inc.;
and Top Rx, Inc.,
Petitioners

vs.) No. 15-1026

The Honorable William S. Thompson, Judge
of the Circuit Court of Boone County;
Patrick Morrissey, Attorney General;
Joseph Thorton, in his capacity as the Secretary of the
West Virginia Department of Military Affairs and Public Safety;
and Karen Bowling, in her capacity as the Secretary of
the West Virginia Department of Health and Human Resources,
Respondents

ORDER

On October 23, 2015, the petitioners, Amerisourcebergen Drug Corp., et al., by counsel, A.L. Emch, and Robert O. Passmore, Jackson Kelly PLLC, presented to the Court a petition praying for a writ of prohibition to be directed against the respondent, the

Honorable William S. Thompson, Judge of the Circuit Court of Boone County, as therein set forth. On the same day, Cardinal Health, Inc., by counsel W. Henry Jernigan, Jr., Dinsmore & Shohl LLP, filed an *amicus curiae* brief in support of the petitioners. Thereafter, on October 26, 2015, the Healthcare Distribution Management Association and the National Association of Wholesaler-Distributors, by counsel John H. Tinney, Jr. and John K. Cecil, The Tinney Law Firm, filed an *amici curiae* brief in support of the petitioners.

Finally, on November 30, 2015, the respondents, Patrick Morrissey, Attorney General, et al., by James Cagle and P. Rodney Jackson, Cagle & Jackson; and Sean P. McGinley, DiTrapano, Barrett DiPiero, McGinley & Simmons, PLLC, filed a response to the petition.

Upon consideration and review, the Court is of the opinion that a rule should not be awarded, and the writ prayed for by the petitioner is hereby refused. Chief Justice Ketchum and Justice Loughry would issue a rule to show cause.

A True Copy

Attest: //s// Rory L. Perry II
Clerk of Court

